



January 25, 2002

## SENATE BILL No. 367

DIGEST OF SB 367 (Updated January 23, 2002 5:11 PM - DI 105)

**Citations Affected:** IC 5-2; IC 11-13; IC 31-37; IC 35-38; IC 35-43; IC 35-50; IC 36-2; IC 36-8; noncode.

**Synopsis:** Sex offender registry. Provides that an offender must register with the county sheriff (instead of all local law enforcement agencies). Requires a sheriff to maintain a sex offender registry website containing the photograph, address, and other information relating to an offender. Provides that the jail commissary fund or emergency telephone fees may be used to fund the sex offender registry website. Requires the criminal justice institute to send a copy of the sex and violent offender directory to certain parties on computer disk, to send a paper copy of the directory upon request, and to provide a computer link to sex offender websites maintained by county sheriffs. Provides that a person must register in Indiana if the person spends seven or more days in Indiana in a 180 day period or owns real property in Indiana and returns to the property at any time. Provides that a person who damages or defaces a copy of the directory commits criminal mischief: (1) as a Class A misdemeanor if the person is not required to register; and (2) as a Class D felony if the person is required to register. Prohibits an offender on probation or parole from residing within one mile of the victim's home. Provides that the victim's address is confidential. Repeals provisions concerning the current sex and violent offender registry.

**Effective:** July 1, 2002.

**Long, Bray, Alexa, Hershman, Zakas,  
Waterman**

January 8, 2002, read first time and referred to Committee on Judiciary.  
January 24, 2002, amended, reported favorably — Do Pass.

SB 367—LS 6690/DI 106+



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January 25, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 367

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-2-5-5, AS AMENDED BY P.L.272-2001,  
2 SECTION 2, AND AS AMENDED BY P.L.228-2001, SECTION 2, IS  
3 AMENDED AND CORRECTED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Except as provided in  
5 subsection (b), on request, law enforcement agencies shall release or  
6 allow inspection of a limited criminal history to noncriminal justice  
7 organizations or individuals only if the subject of the request:  
8 (1) has applied for employment with a noncriminal justice  
9 organization or individual;  
10 (2) has applied for a license and criminal history data as required  
11 by law to be provided in connection with the license;  
12 (3) is a candidate for public office or a public official;  
13 (4) is in the process of being apprehended by a law enforcement  
14 agency;  
15 (5) is placed under arrest for the alleged commission of a crime;  
16 (6) has charged that his rights have been abused repeatedly by  
17 criminal justice agencies;

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(7) is the subject of judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

(9) has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;

(10) is being investigated for welfare fraud by an investigator of the division of family and children or a county office of family and children;

(11) is being sought by the parent locator service of the child support bureau of the division of family and children; ~~or~~

**(12) is or was required to register as a sex and violent offender under IC 5-2-12; or**

**(13) has been convicted of any of the following:**

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) *Sexual misconduct with a minor as a ~~Class A~~ or B felony (IC 35-42-4-9).*

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for *any of the purpose of following purposes:*



(A) Employment ~~and~~ with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 2. IC 5-2-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may and the department shall do the following:

(1) Require a form, provided by them, to be completed. This form shall be maintained for a period of two (2) years and shall be available to the record subject upon request.

(2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information which:

(1) has been requested; and

(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request is ~~from the institute for conviction information that will be used to establish or update the~~ relates to the sex and violent offender registry directory under ~~IC 5-2-12~~ **IC 5-2-6, or concerns a person required to register as a sex and violent offender under IC 5-2-12.**

SECTION 3. IC 5-2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this chapter:

"Criminal justice" includes activities concerning:

(1) the prevention or reduction of criminal offenses;

(2) the enforcement of criminal law;

(3) the apprehension, prosecution, and defense of persons accused of crimes;

(4) the disposition of convicted persons, including corrections, rehabilitation, probation, and parole; and

(5) the participation of members of the community in corrections.



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"Entitlement jurisdictions" include the state and certain local governmental units as defined in Section 402(a) of the Omnibus Act.

"Institute" means the Indiana criminal justice institute.

"Juvenile justice" includes activities concerning:

- (1) the prevention or reduction of juvenile delinquency;
- (2) the apprehension and adjudication of juvenile offenders;
- (3) the disposition of juvenile offenders including protective techniques and practices;
- (4) the prevention of child abuse and neglect; and
- (5) the discovery, protection, and disposition of children in need of services.

"Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

"Local governmental entities" include:

- (1) trial courts; and
- (2) political subdivisions (as defined in IC 36-1-2-13).

**"Offender" has the meaning set forth in IC 5-2-12-4.**

"Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

"Trustees" refers to the board of trustees of the institute.

SECTION 4. IC 5-2-6-3, AS AMENDED BY P.L.238-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. ~~(a)~~ The institute is established to do the following:

- (1) Evaluate state and local programs associated with:
  - (A) the prevention, detection, and solution of criminal offenses;
  - (B) law enforcement; and
  - (C) the administration of criminal and juvenile justice.
- (2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
- (3) Stimulate criminal and juvenile justice research.
- (4) Develop new methods for the prevention and reduction of crime.
- (5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
- (6) Administer victim and witness assistance funds.
- (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
- (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.



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(9) Serve as the criminal justice statistical analysis center for this state.

(10) Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender ~~registry~~ **directory**.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Prescribe or approve forms as required under IC 5-2-12.

(13) Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender ~~registry~~ **directory**.

~~(b) The registry established under subsection (a)(10) must include the names of each sex and violent offender (as defined in IC 5-2-12-4) who is required to register under IC 5-2-12.~~

SECTION 5. IC 5-2-6-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3.5. (a) The sex and violent offender directory established under section 3 of this chapter must include the names of each offender who is or has been required to register under IC 5-2-12.**

**(b) The institute shall do the following:**

**(1) Update the directory at least one (1) time every six (6) months.**

**(2) Publish the directory on the Internet through the computer gateway administered by the intelenet commission under IC 5-21-2 and known as Access Indiana.**

**(3) Make the directory available on a computer disk and, at least one (1) time every six (6) months, send a copy of the computer disk to the following:**

**(A) All school corporations (as defined in IC 20-1-6-1).**

**(B) All nonpublic schools (as defined in IC 20-10.1-1-3).**

**(C) All state agencies that license individuals who work with children.**

**(D) The state personnel department to screen individuals who may be hired to work with children.**

**(E) All child care facilities licensed by or registered in the state.**

**(F) Other entities that:**

**(i) provide services to children; and**

**(ii) request the directory.**



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**(4) Maintain a hyperlink on the institute's computer website that permits users to connect to a sex offender website maintained by a county sheriff under IC 36-2-13-5.5.**

**(5) Make a paper copy of the directory available upon request.**

**(c) A copy of the directory:**

**(1) provided to a child care facility under subsection (b)(3)(E);**

**(2) provided to another entity that provides services to children under subsection (b)(3)(F); or**

**(3) that is published on the Internet under subsection (b)(2); must include the home address of an offender whose name appears in the directory.**

**(d) When the institute publishes on the Internet or distributes a copy of the directory under subsection (b), the institute shall include a notice using the following or similar language:**

**"Based on information submitted to the criminal justice institute, a person whose name appears in this directory has been convicted of a sex offense or a violent offense or has been adjudicated a delinquent child for an act that would be a sex offense or violent offense if committed by an adult."**

SECTION 6. IC 5-2-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

**(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;**

**(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or**

**(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.**

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(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

(2) establish and maintain the sex and violent offender ~~registry~~ **directory** under IC 5-2-12; and

(3) provide training for persons to assist victims.

SECTION 7. IC 5-2-12-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3.5. As used in this chapter, "registration form" means:**

**(1) a form approved or prescribed by the institute; or**

**(2) a form not approved or prescribed by the institute that:**

**(A) contains information required by the institute; and**

**(B) is completed in a manner approved or prescribed by the institute.**

SECTION 8. IC 5-2-12-4, AS AMENDED BY P.L.238-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) As used in this chapter, "~~sex and violent~~ "offender" means a person convicted of any of the following sex and violent offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(13) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (12).

(14) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (13).





(b) The term includes a **child who has committed a delinquent act**  
by a ~~child and~~ who:

- (1) is at least fourteen (14) years of age;
- (2) is on probation, is on parole, or is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
- (3) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 9. IC 5-2-12-5, AS AMENDED BY P.L.238-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Subject to section 13 of this chapter, the following persons must register under this chapter:

(1) ~~A sex and violent~~ An offender who resides ~~or intends to reside for more than seven (7) days~~ in Indiana. **An offender resides in Indiana if either of the following applies:**

**(A) The offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.**

**(B) The offender owns real property in Indiana and returns to Indiana at any time.**

(2) ~~A sex and violent~~ An offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period of time:

(A) exceeding fourteen (14) consecutive days; or

(B) for an aggregate period of time exceeding thirty (30) days; during any calendar year in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) ~~A sex and violent~~ An offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) ~~A sex and violent~~ Except as provided in subsection (e), an offender who resides ~~or intends to reside~~ in Indiana shall register with ~~each local law enforcement authority having the sheriff of the county jurisdiction in the area where the sex and violent offender resides or intends to reside.~~ **If an offender resides in more than one (1) county,**



1 the offender shall register with the sheriff of each county in which  
2 the offender resides.

3 (c) ~~A sex and violent~~ An offender described in subsection (a)(2)  
4 shall register with the local law enforcement authority having  
5 jurisdiction in sheriff of the county the principal area where the sex  
6 and violent offender is or intends to be employed or carry on a  
7 vocation. If an offender is or intends to be employed or carry on a  
8 vocation in more than one (1) county, the offender shall register  
9 with the sheriff of each county.

10 (d) ~~A sex and violent~~ An offender described in subsection (a)(3)  
11 shall register with the local law enforcement authority having  
12 jurisdiction in sheriff of the county the principal area where the sex  
13 and violent offender is enrolled or intends to be enrolled as a student.

14 (e) An offender described in subsection (a)(1)(B) shall register  
15 with the sheriff in the county in which the real property is located.

16 (f) ~~A sex and violent~~ (f) An offender shall register on a form or in  
17 the form complete a registration form. prescribed or approved by the  
18 institute. Each local law enforcement sheriff authority shall make the  
19 required registration forms available to registrants.

20 (f) (g) The sex and violent offender shall register not more than  
21 seven (7) days after the sex and violent offender arrives at the place  
22 where the sex and violent offender is required to register under  
23 subsection (b), (c), or (d).

24 (g) (h) Whenever a sex and violent an offender registers with a local  
25 law sheriff, enforcement authority; the local law enforcement agency  
26 sheriff shall immediately notify the institute of the sex and violent  
27 offender's registration on a form or in the form prescribed or approved  
28 by the institute. by forwarding a copy of the registration form to the  
29 institute.

30 (i) The sheriff shall make and publish a photograph of an  
31 offender on a website that is maintained by the sheriff under  
32 IC 36-2-13-5.5.

33 (j) When an offender completes a new registration form, the  
34 sheriff shall:

35 (1) forward a copy of the new registration form to the  
36 institute; and

37 (2) notify every law enforcement agency having jurisdiction  
38 in the area where the offender resides.

39 SECTION 10. IC 5-2-12-6, AS AMENDED BY P.L.238-2001,  
40 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2002]: Sec. 6. The registration required under this chapter  
42 must include the following information:



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(1) The ~~sex and violent~~ offender's full name, alias, **any name by which the offender was previously known**, date of birth, sex, race, height, weight, **hair color**, eye color, Social Security number, driver's license number, and home address.

(2) A description of the offense for which the sex and violent offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 5(a)(2) or 5(a)(3) of this chapter, the name and address of each of the ~~sex and violent~~ offender's employers in Indiana, the name and address of each campus or location where the ~~sex and violent~~ offender is enrolled in school in Indiana, and the address where the ~~sex and violent~~ offender stays or intends to stay **overnight while** in Indiana **for more than seven (7) days**.

(4) **A recent photograph of the offender.**

(5) Any other information required by the institute.

SECTION 11. IC 5-2-12-7, AS AMENDED BY P.L.238-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Not more than fourteen (14) days before an Indiana ~~sex and violent~~ offender who is required to register under this chapter is scheduled to be released from a correctional facility, transferred to a community transition **or community corrections** program, transferred to the jurisdiction of a sentencing court or probation office for a term of probation after being confined in a facility, released from any other penal facility (as defined in IC 35-41-1-21), released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the ~~sex and violent~~ offender of the ~~sex and violent~~ offender's duty to register under this chapter and require the ~~sex and violent~~ offender to sign a written statement that the ~~sex and violent~~ offender was orally informed or, if the ~~sex and violent~~ offender refuses to sign the statement, certify that the ~~sex and violent~~ offender was orally informed of the duty to register.

(2) Deliver a ~~written notice on a registration form or in the form prescribed or approved by the institute of the sex and violent~~ **advising the offender of the** offender's duty to register under this chapter and require the ~~sex and violent~~ offender to sign a written statement that the ~~sex and violent~~ offender received the written notice or, if the ~~sex and violent~~ offender refuses to sign the statement, certify that the ~~sex and violent~~ offender was given the



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1 written notice of the duty to register.

2 (3) Obtain the address where the ~~sex and violent~~ offender expects  
3 to reside after the ~~sex and violent~~ offender's release.

4 (4) Inform in writing on a form or in the form prescribed or  
5 approved by the institute the ~~applicable local law enforcement~~  
6 ~~authority~~ **sheriff** having jurisdiction in the ~~area~~ **county** where the  
7 ~~sex and violent~~ offender expects to reside of the ~~sex and violent~~  
8 offender's name, date of release or transfer, new address, and the  
9 ~~sex and violent~~ offense or delinquent act committed by the ~~sex~~  
10 ~~and violent~~ offender.

11 (b) Not more than three (3) days after a ~~sex and violent an~~ offender  
12 who is required to register under this chapter is released or transferred  
13 as described in subsection (a), an official of the facility shall ~~send~~  
14 **transmit** to the state police ~~on a form or in the form prescribed or~~  
15 ~~approved by the institute~~ the following:

16 (1) The ~~sex and violent~~ offender's fingerprints, photograph, and  
17 identification factors.

18 (2) The address where the ~~sex and violent~~ offender expects to  
19 reside after the ~~sex and violent~~ offender's release.

20 (3) The complete criminal history data (as defined in IC 5-2-5-1)  
21 or, if the ~~sex and violent~~ offender committed a delinquent act,  
22 juvenile history data (as defined in IC 5-2-5.1-5) of the ~~sex and~~  
23 ~~violent~~ offender.

24 (4) Information regarding the ~~sex and violent~~ offender's past  
25 treatment for mental disorders.

26 (5) Information as to whether the ~~sex and violent~~ offender has  
27 been determined to be a sexually violent predator.

28 (c) This subsection applies if a ~~sex and violent an~~ offender is placed  
29 on probation or in a community corrections program without confining  
30 the ~~sex and violent~~ offender in a penal facility. The probation office  
31 serving the court in which the sex and violent offender is sentenced  
32 shall perform the duties required under subsections (a) and (b).

33 SECTION 12. IC 5-2-12-8, AS AMENDED BY P.L.238-2001,  
34 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2002]: Sec. 8. (a) If a ~~sex and violent an~~ offender who is  
36 required to register under this chapter changes:

37 (1) home address; or

38 (2) if section 5(a)(2) or 5(a)(3) of this chapter applies, the place  
39 where the ~~sex and violent~~ offender stays ~~overnight for more than~~  
40 ~~seven (7) days; in Indiana;~~

41 the ~~sex and violent~~ offender shall ~~provide written notice complete and~~  
42 **submit a new registration form** not more than seven (7) days after the

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1 address change to the local law enforcement authority sheriff with  
 2 whom the sex and violent offender last registered. on a form or in the  
 3 form prescribed or approved by the institute.

4 (b) If the sex and violent offender moves to a new municipality or  
 5 county in Indiana, the local law enforcement authority sheriff referred  
 6 to in subsection (a) shall in writing inform the appropriate local law  
 7 enforcement authority sheriff in the new municipality or county in  
 8 Indiana on a form or in the form prescribed or approved by the Indiana  
 9 criminal justice institute, of the sex and violent offender's home or  
 10 overnight residence by forwarding to the sheriff in the new county  
 11 a copy of the registration form. The local law enforcement authority  
 12 sheriff receiving the written notice under this subsection shall verify  
 13 the address of the sex and violent offender under section 8.5 of this  
 14 chapter within seven (7) days after receiving the notice.

15 (c) If a sex and violent an offender who is required to register under  
 16 section 5(a)(2) or 5(a)(3) of this chapter changes the sex and violent  
 17 offender's principal place of employment, principal place of vocation,  
 18 or campus or location where the sex and violent offender is enrolled in  
 19 school, the sex and violent offender shall provide written notice submit  
 20 a new registration form not more than seven (7) days after the change  
 21 to the local law enforcement authority sheriff with whom the sex and  
 22 violent offender last registered. on a form or in the form prescribed or  
 23 approved by the institute.

24 (d) If a sex and violent an offender moves the sex and violent  
 25 offender's place of employment, vocation, or enrollment to a new  
 26 municipality or county in Indiana, the local law enforcement authority  
 27 sheriff referred to in subsection (c) shall in writing inform the  
 28 appropriate local law enforcement authority sheriff in the new  
 29 municipality or county in Indiana on a form or in the form prescribed  
 30 or approved by the institute, of the sex and violent offender's new  
 31 principal place of employment, vocation, or enrollment by forwarding  
 32 a copy of the registration form to the sheriff in the new county.

33 (e) If an offender moves the offender's residence, place of  
 34 employment, or enrollment to a new state, the sheriff shall inform  
 35 the state police in the new state of the offender's new place of  
 36 residence, employment, or enrollment.

37 (f) A local law enforcement authority sheriff shall make the forms  
 38 required under this section available to registrants.

39 (f) (g) A local law enforcement authority sheriff who is notified of  
 40 a change under subsection (a) or (c) shall immediately notify the  
 41 institute of the change on a form or in the form prescribed or approved  
 42 by the institute. by forwarding a copy of the registration form to the



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1 **institute.**

2 SECTION 13. IC 5-2-12-8.5, AS AMENDED BY P.L.238-2001,  
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2002]: Sec. 8.5. (a) To verify a ~~sex and violent~~ an offender's  
5 current ~~home or overnight~~ residence, the ~~local law enforcement agency~~  
6 **sheriff** shall do the following:

7 (1) Mail each ~~sex and violent~~ offender a **verification registration**  
8 form ~~prescribed or approved by the Indiana criminal justice~~  
9 **institute** to the ~~sex and violent~~ offender's listed address at least  
10 one (1) time per year, beginning seven (7) days after the ~~local law~~  
11 **enforcement authority sheriff** receives a notice under section 14  
12 of this chapter or the date the ~~sex and violent~~ offender is:

13 (A) released from a penal facility (as defined in  
14 IC 35-41-1-21), a secure private facility (as defined in  
15 IC 31-9-2-115), or a juvenile detention facility;

16 (B) placed in a community transition program;

17 (C) **placed in a community corrections program;**

18 (D) placed on parole; or

19 ~~(D)~~ (E) placed on probation;

20 whichever occurs first.

21 (2) Mail a **verification registration** form ~~prescribed or approved~~  
22 **by the Indiana criminal justice institute** to each ~~sex and violent~~  
23 offender who is designated a sexually violent predator under  
24 IC 35-38-1-7.5 at least once every ninety (90) days, beginning  
25 seven (7) days after the ~~local law enforcement authority sheriff~~  
26 receives a notice under section 14 of this chapter or the date the  
27 ~~sex and violent~~ offender is:

28 (A) released from a penal facility (as defined in  
29 IC 35-41-1-21), a secure private facility (as defined in  
30 IC 31-9-2-115), or a juvenile detention facility;

31 (B) placed in a community transition program;

32 (C) **placed in a community corrections program;**

33 (D) placed on parole; or

34 ~~(D)~~ (E) placed on probation;

35 whichever occurs first.

36 (b) If a ~~sex and violent~~ an offender fails to return a signed  
37 **verification registration** form either by mail or in person, the ~~local law~~  
38 **enforcement authority sheriff** shall immediately notify the institute **and**  
39 **the prosecuting attorney.**

40 SECTION 14. IC 5-2-12-8.6, AS AMENDED BY P.L.238-2001,  
41 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2002]: Sec. 8.6. (a) ~~A sex and violent~~ An offender who is



required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a ~~sex and violent~~ **an** offender who is required to register under this chapter changes the ~~sex and violent~~ offender's name due to marriage, the ~~sex and violent~~ offender must notify the ~~criminal justice institute county sheriff by completing a registration form~~ not more than thirty (30) days after the name change.

SECTION 15. IC 5-2-12-9, AS AMENDED BY P.L.238-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. ~~A sex and violent~~ **An** offender who knowingly or intentionally fails to register under this chapter commits a Class D felony. However, the offense is a Class C felony if the ~~sex and violent~~ offender has a prior unrelated offense under this section.

SECTION 16. IC 5-2-12-13, AS AMENDED BY P.L.238-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) Except as provided in subsections (b) and (c), a ~~sex and violent~~ **an** offender's duty to register expires ten (10) years after the date the ~~sex and violent~~ offender:

(1) ~~becomes twenty-one (21) years of age; if the sex and violent offender was required to register under this chapter for a delinquent act;~~

(2) ~~(1)~~ is released from a penal facility (as defined in IC 35-41-1-21) **or a secure juvenile detention facility** of a state or another jurisdiction;

(3) ~~(2)~~ is placed in a community transition program;

(4) ~~(3)~~ is placed in a community corrections program;

(5) ~~(4)~~ is placed on parole; or

(6) ~~(5)~~ is placed on probation;

whichever occurs last.

(b) ~~A sex and violent~~ **An** offender who is found to be a sexually violent predator by a court under IC 35-38-1-7.5(b) is required to register for an indefinite period unless a court, assisted by a board of experts, finds that the ~~sex and violent~~ offender is no longer a sexually violent predator under IC 35-38-1-7.5(c).

(c) ~~A sex and violent~~ **An** offender who is convicted of at least one (1) sex and violent offense that the ~~sex and violent~~ offender committed:

(1) when the person was at least eighteen (18) years of age; and

(2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) ~~A sex and violent~~ **An** offender who is convicted of at least one (1) sex and violent offense

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1 ~~(1) that was committed when the person was at least eighteen (18)~~  
 2 ~~years of age;~~

3 ~~(2) that was committed against a victim who was less than~~  
 4 ~~eighteen (18) years of age at the time of the crime;~~

5 ~~(3) in which the sex and violent offender:~~

6 ~~(A) (1) proximately caused serious bodily injury or death to~~  
 7 ~~the victim;~~

8 ~~(B) (2) used force or the threat of force against the victim or a~~  
 9 ~~member of the victim's family; or~~

10 ~~(C) (3) rendered the victim unconscious or otherwise~~  
 11 ~~incapable of giving voluntary consent;~~  
 12 is required to register for life.

13 (e) ~~A sex and violent~~ An offender who is convicted of at least two  
 14 (2) unrelated sex and violent offenses ~~that were committed:~~

15 ~~(1) when the person was at least eighteen (18) years of age; and~~

16 ~~(2) against victims who were less than eighteen (18) years of age~~  
 17 ~~at the time of the crime;~~

18 is required to register for life.

19 SECTION 17. IC 5-2-12-14, AS ADDED BY P.L.238-2001,  
 20 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2002]: Sec. 14. (a) The governor may enter into a compact  
 22 with one (1) or more jurisdictions outside Indiana to exchange  
 23 notifications concerning the release, transfer, or change of address,  
 24 employment, vocation, or enrollment of a ~~sex and violent an~~ offender  
 25 between Indiana and the other jurisdiction or the other jurisdiction and  
 26 Indiana.

27 (b) The compact must provide for the designation of a state agency  
 28 to coordinate the transfer of information.

29 (c) If the state agency receives information that a ~~sex and violent an~~  
 30 offender has relocated to Indiana to reside, engage in employment or  
 31 a vocation, or enroll in school, the state agency shall inform in writing  
 32 ~~the appropriate local law enforcement authority having jurisdiction in~~  
 33 ~~the area sheriff of the county~~ where the ~~sex and violent~~ offender is  
 34 required to register in Indiana of:

35 (1) the ~~sex and violent~~ offender's name, date of relocation, and  
 36 new address; and

37 (2) the sex and violent offense or delinquent act committed by the  
 38 ~~sex and violent~~ offender.

39 SECTION 18. IC 11-13-3-4, AS AMENDED BY P.L.238-2001,  
 40 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2002]: Sec. 4. (a) A condition to remaining on parole is that  
 42 the parolee not commit a crime during the period of parole.





(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
  - (A) the residence of the parolee prior to the parolee's incarceration; and
  - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

- (1) may require a parolee who is a sex and violent offender (as defined in IC 5-2-12-4) to:

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(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is ~~a sex and violent~~ an offender (as defined in IC 5-2-12-4) to register with a ~~local law enforcement authority~~ sheriff enforcement authority under IC 5-2-12-5; and

(B) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the offender obtains written approval from the parole board; and

**(C) prohibit a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the offender's sex offense unless the offender obtains a waiver under IC 35-38-2-2.5.**

If the parole board allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

**(h) The address of the victim of a parolee who is an offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the offender obtains a waiver under IC 35-38-2-2.5.**

SECTION 19. IC 31-37-19-5, AS AMENDED BY P.L.238-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under IC 5-2-12-4 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 5-2-12-4 if committed by an adult to register with a ~~local law enforcement authority~~ the sheriff under IC 5-2-12.



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(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 20. IC 35-38-1-7.5, AS AMENDED BY P.L.238-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7.5. (a) As used in this section, "sexually violent predator" has the meaning set forth in IC 5-2-12-4.5.

(b) This section applies whenever a court sentences a person for a sex offense listed in IC 5-2-12-4(a)(1) through IC 5-2-12-4(a)(10) for which the person is required to register with ~~a local law enforcement agency~~ **the sheriff** under IC 5-2-12-5.

(c) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator. Before making a determination under this section, the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders.

(d) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with ~~a local law enforcement agency~~ **the sheriff** as provided in IC 5-2-12-13(b); and

(2) the court shall send notice of its finding under this subsection to the criminal justice institute.

(e) A person who is found by a court to be a sexually violent predator under subsection (c) may petition the court to consider whether the person is no longer a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after the sentencing court makes its finding under subsection (c). A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is no longer a sexually



1 violent predator, the court shall send notice to the Indiana criminal  
2 justice institute that the person is no longer considered a sexually  
3 violent predator.

4 SECTION 21. IC 35-38-2-2.2, AS AMENDED BY P.L.238-2001,  
5 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2002]: Sec. 2.2. As a condition of probation for ~~a sex and~~  
7 ~~violent an~~ offender (as defined in IC 5-2-12-4), the court shall:

8 (1) require the offender to register with ~~a local law enforcement~~  
9 ~~authority~~ **the sheriff** under IC 5-2-12-5; and

10 (2) prohibit the offender from residing within one thousand  
11 (1,000) feet of school property (as defined in IC 35-41-1-24.7) for  
12 the period of probation, unless the offender obtains written  
13 approval from the court.

14 If the court allows the ~~sex and violent~~ offender to reside within one  
15 thousand (1,000) feet of school property under subdivision (2), the  
16 court shall notify each school within one thousand (1,000) feet of the  
17 offender's residence of the order.

18 SECTION 22. IC 35-38-2-2.4, AS AMENDED BY P.L.238-2001,  
19 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2002]: Sec. 2.4. As a condition of probation, the court may  
21 require ~~a sex and violent an~~ offender (as defined in IC 5-2-12-4) to:

22 (1) participate in a treatment program for sex offenders approved  
23 by the court; and

24 (2) avoid contact with any person who is less than sixteen (16)  
25 years of age unless the probationer:

26 (A) receives the court's approval; or

27 (B) successfully completes the treatment program referred to  
28 in subdivision (1).

29 SECTION 23. IC 35-38-2-2.5 IS ADDED TO THE INDIANA  
30 CODE AS A NEW SECTION TO READ AS FOLLOWS  
31 [EFFECTIVE JULY 1, 2002]: **Sec. 2.5. (a) As used in this section,**  
32 **"offender" means an individual convicted of a sex offense.**

33 **(b) As used in this section, "sex offense" means any of the**  
34 **following:**

35 **(1) Rape (IC 35-42-4-1).**

36 **(2) Criminal deviate conduct (IC 35-42-4-2).**

37 **(3) Child molesting (IC 35-42-4-3).**

38 **(4) Child exploitation (IC 35-42-4-4(b)).**

39 **(5) Vicarious sexual gratification (IC 35-42-4-5).**

40 **(6) Child solicitation (IC 35-42-4-6).**

41 **(7) Child seduction (IC 35-42-4-7).**

42 **(8) Sexual battery (IC 35-42-4-8).**



(9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:

(A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or

(B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or

(2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a new residence within one (1) mile of the residence of the victim of the offender's sex offense unless the offender first obtains a waiver from the:

(1) court, if the offender is placed on probation; or

(2) parole board, if the offender is placed on parole;

for the change of address under subsection (f).

(f) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:

(1) the offender has successfully completed a sex offender treatment program during the period of probation or parole;

(2) the offender is in compliance with all terms of the offender's probation or parole; and

(3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(h) The address of the victim of the offender's sex offense is



1 **confidential even if the court or parole board grants a waiver**  
 2 **under subsection (f).**

3 SECTION 24. IC 35-43-1-2, AS AMENDED BY P.L.100-1999,  
 4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2002]: Sec. 2. (a) A person who:

- 6 (1) recklessly, knowingly, or intentionally damages or defaces  
 7 property of another person without the other person's consent; or  
 8 (2) knowingly or intentionally causes another to suffer pecuniary  
 9 loss by deception or by an expression of intention to injure  
 10 another person or to damage the property or to impair the rights  
 11 of another person;

12 commits criminal mischief, a Class B misdemeanor. However, the  
 13 offense is:

14 (A) a Class A misdemeanor if:

15 (i) the pecuniary loss is at least two hundred fifty dollars  
 16 (\$250) but less than two thousand five hundred dollars  
 17 (\$2,500);

18 (ii) the property damaged was a moving motor vehicle;

19 **(iii) the property damaged or defaced was a copy of the**  
 20 **sex and violent offender directory (IC 5-2-6-3) and the**  
 21 **person is not a sex offender or was not required to**  
 22 **register as a sex offender;**

23 **(iv) the property damaged was a car or equipment of a**  
 24 **railroad company being operated on a railroad right-of-way;**  
 25 or

26 ~~(iv)~~ (v) the property damage or defacement was caused by  
 27 paint or other markings; and

28 (B) a Class D felony if:

29 (i) the pecuniary loss is at least two thousand five hundred  
 30 dollars (\$2,500);

31 (ii) the damage causes a substantial interruption or  
 32 impairment of utility service rendered to the public;

33 (iii) the damage is to a public record;

34 **(iv) the property damaged or defaced was a copy of the**  
 35 **sex and violent offender directory (IC 5-2-6-3) and the**  
 36 **person is a sex offender or was required to register as a**  
 37 **sex offender;**

38 (v) the damage causes substantial interruption or impairment  
 39 of work conducted in a scientific research facility; or

40 ~~(v)~~ (vi) the damage is to a law enforcement animal (as  
 41 defined in IC 35-46-3-4.5).

42 (b) A person who recklessly, knowingly, or intentionally damages:

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- (1) a structure used for religious worship;
- (2) a school or community center;
- (3) the grounds:
  - (A) adjacent to; and
  - (B) owned or rented in common with;
- a structure or facility identified in subdivision (1) or (2); or
- (4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

- (1) the person has removed or painted over the graffiti or has made other suitable restitution; and
- (2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 25. IC 35-50-2-2, AS AMENDED BY P.L.238-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence:

- (1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.
- (2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever



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1 is later, for a prior unrelated felony conviction and the date the  
 2 person committed the Class C felony for which the person is  
 3 being sentenced.

4 (3) The crime committed was a Class D felony and less than three  
 5 (3) years have elapsed between the date the person was  
 6 discharged from probation, imprisonment, or parole, whichever  
 7 is later, for a prior unrelated felony conviction and the date the  
 8 person committed the Class D felony for which the person is  
 9 being sentenced. However, the court may suspend the minimum  
 10 sentence for the crime only if the court orders home detention  
 11 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum  
 12 sentence specified for the crime under this chapter.

13 (4) The felony committed was:

14 (A) murder (IC 35-42-1-1);

15 (B) battery (IC 35-42-2-1) with a deadly weapon or battery  
 16 causing death;

17 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;

18 (D) kidnapping (IC 35-42-3-2);

19 (E) confinement (IC 35-42-3-3) with a deadly weapon;

20 (F) rape (IC 35-42-4-1) as a Class A felony;

21 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A  
 22 felony;

23 (H) child molesting (IC 35-42-4-3) as a Class A or Class B  
 24 felony;

25 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or  
 26 with a deadly weapon;

27 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily  
 28 injury;

29 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury  
 30 or with a deadly weapon;

31 (L) resisting law enforcement (IC 35-44-3-3) with a deadly  
 32 weapon;

33 (M) escape (IC 35-44-3-5) with a deadly weapon;

34 (N) rioting (IC 35-45-1-2) with a deadly weapon;

35 (O) dealing in cocaine, a narcotic drug, or methamphetamine  
 36 (IC 35-48-4-1) if the court finds the person possessed a firearm  
 37 (as defined in IC 35-47-1-5) at the time of the offense, or the  
 38 person delivered or intended to deliver to a person under  
 39 eighteen (18) years of age at least three (3) years junior to the  
 40 person and was on a school bus or within one thousand (1,000)  
 41 feet of:

42 (i) school property;



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- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; or

(R) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of a ~~sex and violent~~ offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 26. IC 35-50-6-1, AS AMENDED BY P.L.238-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) Except as provided in subsection (d), when a person imprisoned for a felony completes his fixed term of

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1 imprisonment, less the credit time he has earned with respect to that  
2 term, he shall be:

- 3 (1) released on parole for not more than twenty-four (24) months,  
4 as determined by the parole board;
- 5 (2) discharged upon a finding by the committing court that the  
6 person was assigned to a community transition program and may  
7 be discharged without the requirement of parole; or
- 8 (3) released to the committing court if his sentence included a  
9 period of probation.

10 (b) Except as provided in subsection (d), a person released on parole  
11 remains on parole from the date of his release until his fixed term  
12 expires, unless his parole is revoked or he is discharged from that term  
13 by the parole board. In any event, if his parole is not revoked, the  
14 parole board shall discharge him after the period set under subsection  
15 (a) or the expiration of the person's fixed term, whichever is shorter.

16 (c) A person whose parole is revoked shall be imprisoned for the  
17 remainder of his fixed term. However, he shall again be released on  
18 parole when he completes that remainder, less the credit time he has  
19 earned since the revocation. The parole board may reinstate him on  
20 parole at any time after the revocation.

21 (d) When ~~a sex and violent~~ **an** offender (as defined in IC 5-2-12-4)  
22 completes the offender's fixed term of imprisonment, less credit time  
23 earned with respect to that term, the offender shall be placed on parole  
24 for not more than ten (10) years.

25 SECTION 27. IC 36-2-13-5 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) The sheriff shall:

- 27 (1) arrest without process persons who commit an offense within  
28 his view, take them before a court of the county having  
29 jurisdiction, and detain them in custody until the cause of the  
30 arrest has been investigated;
- 31 (2) suppress breaches of the peace, calling the power of the  
32 county to his aid if necessary;
- 33 (3) pursue and jail felons;
- 34 (4) execute all process directed to him by legal authority;
- 35 (5) serve all process directed to him from a court or the county  
36 executive;
- 37 (6) attend and preserve order in all courts of the county;
- 38 (7) take care of the county jail and the prisoners there; ~~and~~
- 39 (8) take photographs, fingerprints, and other identification data as  
40 he shall prescribe of persons taken into custody for felonies or  
41 misdemeanors; ~~and~~
- 42 (9) **establish and maintain a sex offender website in**



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1 **accordance with section 5.5 of this chapter.**

2 (b) A person who:

- 3 (1) refuses to be photographed;  
 4 (2) refuses to be fingerprinted;  
 5 (3) withholds information; or  
 6 (4) gives false information;

7 as prescribed in subsection (a)(8), commits a Class C misdemeanor.

8 SECTION 28. IC 36-2-13-5.5 IS ADDED TO THE INDIANA  
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 10 [EFFECTIVE JULY 1, 2002]: **Sec. 5.5. (a) Every sheriff shall**  
 11 **establish and maintain a sex offender website to inform the general**  
 12 **public about the identity, location, and appearance of every sex**  
 13 **offender residing in the sheriff's county.**

14 (b) The sex offender website must include the following  
 15 information:

- 16 (1) A recent photograph of every sex offender who has  
 17 registered with the sheriff after the effective date of this  
 18 chapter.  
 19 (2) The home address of every sex offender who resides in the  
 20 sheriff's county.  
 21 (3) The information required to be included in the sex  
 22 offender directory (IC 5-2-12-6).

23 (c) Every time a sex offender submits a new registration form to  
 24 the sheriff, but at least once per year, the sheriff shall photograph  
 25 the sex offender. The sheriff shall place this photograph on the sex  
 26 offender website.

27 (d) The photograph of a sex offender described in subsection (c)  
 28 must meet the following requirements:

- 29 (1) The photograph must be full face, front view, with a plain  
 30 white or off-white background.  
 31 (2) The image of the offender's face, measured from the  
 32 bottom of the chin to the top of the head, must fill at least  
 33 seventy-five percent (75%) of the photograph.  
 34 (3) The photograph must be in color.  
 35 (4) The photograph must show the offender dressed in normal  
 36 street attire, without a hat or headgear that obscures the hair  
 37 or hairline.  
 38 (5) If the offender normally and consistently wears  
 39 prescription glasses, a hearing device, wig, or a similar article,  
 40 the photograph must show the offender wearing these items.  
 41 A photograph may not include dark glasses or  
 42 nonprescription glasses with tinted lenses unless the offender

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1 can provide a medical certificate demonstrating that tinted  
2 lenses are required for medical reasons.

3 **(6) The photograph must have sufficient resolution to permit**  
4 **the offender to be easily identified by a person accessing the**  
5 **sex offender website.**

6 **(e) The sex offender website may be funded from:**

7 **(1) the jail commissary fund (IC 36-8-10-21);**

8 **(2) money appropriated from the emergency telephone fee**  
9 **fund (IC 36-8-16-14);**

10 **(3) a grant from the criminal justice institute; and**

11 **(4) any other source, subject to the approval of the county**  
12 **fiscal body.**

13 SECTION 29. IC 36-8-10-21, AS AMENDED BY P.L.80-2000,  
14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2002]: Sec. 21. (a) This section applies to any county that has  
16 a jail commissary that sells merchandise to inmates.

17 (b) A jail commissary fund is established, referred to in this section  
18 as "the fund". The fund is separate from the general fund, and money  
19 in the fund does not revert to the general fund.

20 (c) The sheriff, or his designee, shall deposit all money from  
21 commissary sales into the fund, which he shall keep in a depository  
22 designated under IC 5-13-8.

23 (d) The sheriff, or his designee, at his discretion and without  
24 appropriation by the county fiscal body, may disburse money from the  
25 fund for:

26 (1) merchandise for resale to inmates through the commissary;

27 (2) expenses of operating the commissary, including, but not  
28 limited to, facilities and personnel;

29 (3) special training in law enforcement for employees of the  
30 sheriff's department;

31 (4) equipment installed in the county jail;

32 (5) equipment, including vehicles and computers, computer  
33 software, communication devices, office machinery and  
34 furnishings, animals, animal training, holding and feeding  
35 equipment and supplies, or attire used by an employee of the  
36 sheriff's department in the course of the employee's official duties;

37 (6) an activity provided to maintain order and discipline among  
38 the inmates of the county jail;

39 (7) an activity or program of the sheriff's department intended to  
40 reduce or prevent occurrences of criminal activity, including the  
41 following:

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- 1 (A) Substance abuse.
- 2 (B) Child abuse.
- 3 (C) Domestic violence.
- 4 (D) Drinking and driving.
- 5 (E) Juvenile delinquency; ~~or~~
- 6 **(8) expenses related to the establishment, operation, or**
- 7 **maintenance of a sex offender website (IC 36-2-13-5.5); or**
- 8 **(9) any other purpose that benefits the sheriff's department that is**
- 9 **mutually agreed upon by the county fiscal body and the county**
- 10 **sheriff.**

11 Money disbursed from the fund under this subsection must be  
 12 supplemental or in addition to, rather than a replacement for, regular  
 13 appropriations made to carry out the purposes listed in subdivisions (1)  
 14 through (8).

15 (e) The sheriff shall maintain a record of the fund's receipts and  
 16 disbursements. The state board of accounts shall prescribe the form for  
 17 this record. The sheriff shall semiannually provide a copy of this record  
 18 of receipts and disbursements to the county fiscal body. The  
 19 semiannual reports are due on July 1 and December 31 of each year.

20 SECTION 30. IC 36-8-16-14 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. The emergency  
 22 telephone system fees shall be used only to pay for:

- 23 (1) the lease, purchase, or maintenance of enhanced emergency
- 24 telephone equipment, including necessary computer hardware,
- 25 software, and data base provisioning;
- 26 (2) the rates associated with the service suppliers' enhanced
- 27 emergency telephone system network services; ~~and~~
- 28 **(3) the sex offender website (IC 36-2-13-5.5) maintained by a**
- 29 **county sheriff; and**
- 30 **(4) the personnel expenses of the emergency telephone system.**

31 The legislative body of the unit may appropriate money in the fund  
 32 only for such an expenditure.

33 SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 34 JULY 1, 2002]: IC 5-2-12-10; IC 5-2-12-11; IC 5-2-12-12.

35 SECTION 32. [EFFECTIVE JULY 1, 2002] **IC 35-43-1-2, as**  
 36 **amended by this act, applies only to acts committed after June 30,**  
 37 **2002.**

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SENATE MOTION

Mr. President: I move that Senator Hershman be added as coauthor of Senate Bill 367.

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SENATE MOTION

Mr. President: I move that Senators Zakas and Waterman be added as coauthors of Senate Bill 367.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 367, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-5-5, AS AMENDED BY P.L.272-2001, SECTION 2, AND AS AMENDED BY P.L.228-2001, SECTION 2, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;
- (2) has applied for a license and criminal history data as required by law to be provided in connection with the license;
- (3) is a candidate for public office or a public official;
- (4) is in the process of being apprehended by a law enforcement agency;
- (5) is placed under arrest for the alleged commission of a crime;
- (6) has charged that his rights have been abused repeatedly by criminal justice agencies;
- (7) is the subject of judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
- (8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
- (9) has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;
- (10) is being investigated for welfare fraud by an investigator of the division of family and children or a county office of family and children;
- (11) is being sought by the parent locator service of the child support bureau of the division of family and children; ~~or~~
- (12) **is or was required to register as a sex and violent offender**



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**under IC 5-2-12; or**

(13) has been convicted of any of the following:

- (A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
- (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
- (C) Child molesting (IC 35-42-4-3).
- (D) Child exploitation (IC 35-42-4-4(b)).
- (E) Possession of child pornography (IC 35-42-4-4(c)).
- (F) Vicarious sexual gratification (IC 35-42-4-5).
- (G) Child solicitation (IC 35-42-4-6).
- (H) Child seduction (IC 35-42-4-7).
- (I) *Sexual misconduct with a minor as a ~~Class A or B~~ felony (IC 35-42-4-9).*
- (J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

- (1) Federally chartered or insured banking institutions.
- (2) Officials of state and local government for *any of the purpose of following purposes*:
  - (A) Employment ~~and~~ with a state or local governmental entity.
  - (B) Licensing.
- (3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 2. IC 5-2-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may and the department shall do the following:

- (1) Require a form, provided by them, to be completed. This form shall be maintained for a period of two (2) years and shall be available to the record subject upon request.



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(2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information which:

- (1) has been requested; and
- (2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request is ~~from the institute for conviction information that will be used to establish or update the~~ **relates to the sex and violent offender registry directory under IC 5-2-12: IC 5-2-6, or concerns a person required to register as a sex and violent offender under IC 5-2-12.**

SECTION 3. IC 5-2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. As used in this chapter:

"Criminal justice" includes activities concerning:

- (1) the prevention or reduction of criminal offenses;
- (2) the enforcement of criminal law;
- (3) the apprehension, prosecution, and defense of persons accused of crimes;
- (4) the disposition of convicted persons, including corrections, rehabilitation, probation, and parole; and
- (5) the participation of members of the community in corrections.

"Entitlement jurisdictions" include the state and certain local governmental units as defined in Section 402(a) of the Omnibus Act.

"Institute" means the Indiana criminal justice institute.

"Juvenile justice" includes activities concerning:

- (1) the prevention or reduction of juvenile delinquency;
- (2) the apprehension and adjudication of juvenile offenders;
- (3) the disposition of juvenile offenders including protective techniques and practices;
- (4) the prevention of child abuse and neglect; and
- (5) the discovery, protection, and disposition of children in need of services.

"Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

"Local governmental entities" include:

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- (1) trial courts; and
- (2) political subdivisions (as defined in IC 36-1-2-13).

**"Offender" has the meaning set forth in IC 5-2-12-4.**

"Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

"Trustees" refers to the board of trustees of the institute.

SECTION 4. IC 5-2-6-3, AS AMENDED BY P.L.238-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) The institute is established to do the following:

- (1) Evaluate state and local programs associated with:
  - (A) the prevention, detection, and solution of criminal offenses;
  - (B) law enforcement; and
  - (C) the administration of criminal and juvenile justice.
- (2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
- (3) Stimulate criminal and juvenile justice research.
- (4) Develop new methods for the prevention and reduction of crime.
- (5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
- (6) Administer victim and witness assistance funds.
- (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
- (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
- (9) Serve as the criminal justice statistical analysis center for this state.
- (10) Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender ~~registry~~ **directory**.
- (11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.
- (12) Prescribe or approve forms as required under IC 5-2-12.
- (13) Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender ~~registry~~ **directory**.

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(b) The registry established under subsection (a)(10) must include the names of each sex and violent offender (as defined in IC 5-2-12-4) who is required to register under IC 5-2-12.

SECTION 5. IC 5-2-6-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3.5. (a) The sex and violent offender directory established under section 3 of this chapter must include the names of each offender who is or has been required to register under IC 5-2-12.

(b) The institute shall do the following:

(1) Update the directory at least one (1) time every six (6) months.

(2) Publish the directory on the Internet through the computer gateway administered by the intelnet commission under IC 5-21-2 and known as Access Indiana.

(3) Make the directory available on a computer disk and, at least one (1) time every six (6) months, send a copy of the computer disk to the following:

(A) All school corporations (as defined in IC 20-1-6-1).

(B) All nonpublic schools (as defined in IC 20-10.1-1-3).

(C) All state agencies that license individuals who work with children.

(D) The state personnel department to screen individuals who may be hired to work with children.

(E) All child care facilities licensed by or registered in the state.

(F) Other entities that:

(i) provide services to children; and

(ii) request the directory.

(4) Maintain a hyperlink on the institute's computer website that permits users to connect to a sex offender website maintained by a county sheriff under IC 36-2-13-5.5.

(5) Make a paper copy of the directory available upon request.

(c) A copy of the directory:

(1) provided to a child care facility under subsection (b)(3)(E);

(2) provided to another entity that provides services to children under subsection (b)(3)(F); or

(3) that is published on the Internet under subsection (b)(2);

must include the home address of an offender whose name appears in the directory.

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(d) When the institute publishes on the Internet or distributes a copy of the directory under subsection (b), the institute shall include a notice using the following or similar language:

**"Based on information submitted to the criminal justice institute, a person whose name appears in this directory has been convicted of a sex offense or a violent offense or has been adjudicated a delinquent child for an act that would be a sex offense or violent offense if committed by an adult."**

SECTION 6. IC 5-2-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

- (1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;
- (2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or
- (3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

- (1) pay the costs of administering the fund, including expenditures for personnel and data;
- (2) establish and maintain the sex and violent offender ~~registry~~ **directory** under IC 5-2-12; and
- (3) provide training for persons to assist victims.

SECTION 7. IC 5-2-12-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3.5. As used in this chapter, "registration form"**

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means:

- (1) a form approved or prescribed by the institute; or
- (2) a form not approved or prescribed by the institute that:
  - (A) contains information required by the institute; and
  - (B) is completed in a manner approved or prescribed by the institute.

SECTION 8. IC 5-2-12-4, AS AMENDED BY P.L.238-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) As used in this chapter, "~~sex and violent~~" offender" means a person convicted of any of the following sex and violent offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.
- (13) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (12).
- (14) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (13).

(b) The term includes a **child who has committed** a delinquent act by a ~~child~~ and who:

- (1) is at least fourteen (14) years of age;
- (2) is on probation, is on parole, or is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
- (3) is found by a court by clear and convincing evidence to be



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likely to repeat an act that would be an offense described in subsection (a) if committed by an adult."

Page 1, line 5, strike "A sex and violent" and insert "**An**".

Page 1, line 5, strike "or intends to reside for".

Page 1, line 6, strike "more than seven (7) days".

Page 1, line 6, after "Indiana." insert "**An offender resides in Indiana if either of the following applies:**

**(A) The offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.**

**(B) The offender owns real property in Indiana and returns to Indiana at any time."**

Page 1, line 7, strike "A sex and violent" and insert "**An**".

Page 1, line 15, strike "A sex and violent" and insert "**An**".

Page 2, line 3, strike "A sex and violent" and insert "**Except as provided in subsection (e), an**".

Page 2, line 3, strike "or intends to reside".

Page 2, line 4, strike "each local law enforcement authority having" and insert "**the sheriff of the county**".

Page 2, line 5, strike "jurisdiction in the area".

Page 2, line 5, strike "sex and violent".

Page 2, line 5, strike "or" and insert ".".

Page 2, line 6, strike "intends to reside." and insert "**If an offender resides in more than one (1) county, the offender shall register with the sheriff of each county in which the offender resides.**".

Page 2, line 7, strike "A sex and violent" and insert "**An**".

Page 2, line 8, strike "local law enforcement authority having jurisdiction in" and insert "**sheriff of the county**".

Page 2, line 9, strike "the principal area".

Page 2, line 9, strike "sex and violent".

Page 2, line 10, after "vocation." insert "**If an offender is or intends to be employed or carry on a vocation in more than one (1) county, the offender shall register with the sheriff of each county.**".

Page 2, line 11, strike "A sex and violent" and insert "**An**".

Page 2, line 12, strike "local law enforcement authority having jurisdiction in" and insert "**sheriff of the county**".

Page 2, line 13, strike "the principal area".

Page 2, line 13, strike "sex and violent".

Page 2, between lines 14 and 15, begin a new paragraph and insert:  
**"(e) An offender described in subsection (a)(1)(B) shall register with the sheriff in the county in which the real property is**

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located."

Page 2, line 15, strike "(e) A sex and violent" and insert "**(f) An**".

Page 2, line 15, strike "register on a form or in the form" and insert "**complete a registration form**".

Page 2, line 16, strike "prescribed or approved by the institute."

Page 2, line 16, strike "local law enforcement" and insert "**sheriff**".

Page 2, line 17, strike "authority".

Page 2, line 17, strike "required" and insert "**registration**".

Page 2, line 18, strike "(f)" and insert "**(g)**".

Page 2, line 18, strike "sex and violent".

Page 2, line 19, strike "sex and violent".

Page 2, line 20, strike "sex and violent".

Page 2, line 22, strike "(g)" and insert "**(h)**".

Page 2, line 22, strike "a sex and violent" and insert "**an**".

Page 2, line 22, strike "local law" and insert "**sheriff**".

Page 2, line 23, strike "enforcement authority".

Page 2, line 23, strike "local law enforcement agency" and insert "**sheriff**".

Page 2, line 24, strike "sex and violent".

Page 2, line 25, strike "on a form or in the form prescribed or approved by the".

Page 2, line 26, strike "institute" and insert "**by forwarding a copy of the registration form to the institute**".

Page 2, line 27, delete "(h)" and insert "**(i)**".

Page 2, line 27, delete "A local law enforcement authority" and insert "**the sheriff**".

Page 2, line 27, after "shall" insert "**make and**".

Page 2, line 28, delete "a sex and violent" and insert "**an**".

Page 2, line 28, delete "an Internet site" and insert "**a website**".

Page 2, line 29, delete "or for the local law enforcement authority." and insert "**the sheriff under IC 36-2-13-5.5**".

Page 2, delete lines 30 through 40, begin a new paragraph, and insert:

**"(j) When an offender completes a new registration form, the sheriff shall:**

**(1) forward a copy of the new registration form to the institute; and**

**(2) notify every law enforcement agency having jurisdiction in the area where the offender resides.**

Page 3, line 3, strike "sex and violent".

Page 3, line 3, after "alias," insert "**any name by which the**

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**offender was previously known,"**

Page 3, line 4, after "weight," insert **"hair color,"**.

Page 3, line 11, strike "sex".

Page 3, line 12, strike "and violent".

Page 3, line 13, strike "sex and violent".

Page 3, line 14, strike "sex and".

Page 3, line 15, strike "violent".

Page 3, line 15, strike "overnight" and insert **"while"**.

Page 3, line 15, strike "for" and insert ".".

Page 3, strike line 16.

Page 3, line 17, delete "sex and violent".

Page 3, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 10. IC 5-2-12-7, AS AMENDED BY P.L.238-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Not more than fourteen (14) days before an Indiana ~~sex and violent~~ offender who is required to register under this chapter is scheduled to be released from a correctional facility, transferred to a community transition **or community corrections** program, transferred to the jurisdiction of a sentencing court or probation office for a term of probation after being confined in a facility, released from any other penal facility (as defined in IC 35-41-1-21), released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

- (1) Orally inform the ~~sex and violent~~ offender of the ~~sex and violent~~ offender's duty to register under this chapter and require the ~~sex and violent~~ offender to sign a written statement that the ~~sex and violent~~ offender was orally informed or, if the ~~sex and violent~~ offender refuses to sign the statement, certify that the ~~sex and violent~~ offender was orally informed of the duty to register.
- (2) Deliver a ~~written notice on a~~ **registration** form ~~or in the form prescribed or approved by the institute of the sex and violent advising the offender of the~~ offender's duty to register under this chapter and require the ~~sex and violent~~ offender to sign a written statement that the ~~sex and violent~~ offender received the written notice or, if the ~~sex and violent~~ offender refuses to sign the statement, certify that the ~~sex and violent~~ offender was given the written notice of the duty to register.
- (3) Obtain the address where the ~~sex and violent~~ offender expects to reside after the ~~sex and violent~~ offender's release.
- (4) Inform in writing on a form or in the form prescribed or



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approved by the institute the ~~applicable local law enforcement authority~~ **sheriff** having jurisdiction in the ~~area~~ **county** where the ~~sex and violent~~ offender expects to reside of the ~~sex and violent~~ offender's name, date of release or transfer, new address, and the ~~sex and violent~~ offense or delinquent act committed by the ~~sex and violent~~ offender.

(b) Not more than three (3) days after a ~~sex and violent~~ **an** offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall ~~send~~ **transmit** to the state police ~~on a form or in the form prescribed or approved by the institute~~ the following:

- (1) The ~~sex and violent~~ offender's fingerprints, photograph, and identification factors.
- (2) The address where the ~~sex and violent~~ offender expects to reside after the ~~sex and violent~~ offender's release.
- (3) The complete criminal history data (as defined in IC 5-2-5-1) or, if the ~~sex and violent~~ offender committed a delinquent act, juvenile history data (as defined in IC 5-2-5.1-5) of the ~~sex and violent~~ offender.
- (4) Information regarding the ~~sex and violent~~ offender's past treatment for mental disorders.
- (5) Information as to whether the ~~sex and violent~~ offender has been determined to be a sexually violent predator.

(c) This subsection applies if a ~~sex and violent~~ **an** offender is placed on probation or in a community corrections program without confining the ~~sex and violent~~ offender in a penal facility. The probation office serving the court in which the sex and violent offender is sentenced shall perform the duties required under subsections (a) and (b).

SECTION 11. IC 5-2-12-8, AS AMENDED BY P.L.238-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) If a ~~sex and violent~~ **an** offender who is required to register under this chapter changes:

- (1) home address; or
- (2) if section 5(a)(2) or 5(a)(3) of this chapter applies, the place where the ~~sex and violent~~ offender stays ~~overnight for more than seven (7) days; in Indiana;~~

the ~~sex and violent~~ offender shall ~~provide written notice~~ **complete and submit a new registration form** not more than seven (7) days after the address change to the ~~local law enforcement authority~~ **sheriff** with whom the ~~sex and violent~~ offender last registered. ~~on a form or in the form prescribed or approved by the institute.~~



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(b) If the ~~sex and violent~~ offender moves to a new ~~municipality or~~ county in Indiana, the ~~local law enforcement authority~~ **sheriff** referred to in subsection (a) shall ~~in writing~~ inform the ~~appropriate local law enforcement authority~~ **sheriff** in the new ~~municipality or~~ county in Indiana ~~on a form or in the form prescribed or approved by the Indiana criminal justice institute;~~ of the ~~sex and violent~~ offender's ~~home or overnight residence~~ **by forwarding to the sheriff in the new county a copy of the registration form.** The ~~local law enforcement authority~~ **sheriff** receiving the ~~written~~ notice under this subsection shall verify the address of the ~~sex and violent~~ offender under section 8.5 of this chapter within seven (7) days after receiving the notice.

(c) If a ~~sex and violent~~ **an** offender who is required to register under section 5(a)(2) or 5(a)(3) of this chapter changes the ~~sex and violent~~ offender's principal place of employment, principal place of vocation, or campus or location where the ~~sex and violent~~ offender is enrolled in school, the ~~sex and violent~~ offender shall ~~provide written notice~~ **submit a new registration form** not more than seven (7) days after the change to the ~~local law enforcement authority~~ **sheriff** with whom the ~~sex and violent~~ offender last registered. ~~on a form or in the form prescribed or approved by the institute.~~

(d) If a ~~sex and violent~~ **an** offender moves the ~~sex and violent~~ offender's place of employment, vocation, or enrollment to a new ~~municipality or~~ county in Indiana, the ~~local law enforcement authority~~ **sheriff** referred to in subsection (c) shall ~~in writing~~ inform the ~~appropriate local law enforcement authority~~ **sheriff** in the new ~~municipality or~~ county in Indiana ~~on a form or in the form prescribed or approved by the institute;~~ of the ~~sex and violent~~ offender's new principal place of employment, vocation, or enrollment **by forwarding a copy of the registration form to the sheriff in the new county.**

(e) **If an offender moves the offender's residence, place of employment, or enrollment to a new state, the sheriff shall inform the state police in the new state of the offender's new place of residence, employment, or enrollment.**

(f) A ~~local law enforcement authority~~ **sheriff** shall make the forms required under this section available to registrants.

~~(f)~~ (g) A ~~local law enforcement authority~~ **sheriff** who is notified of a change under subsection (a) or (c) shall immediately notify the institute of the change ~~on a form or in the form prescribed or approved by the institute.~~ **by forwarding a copy of the registration form to the institute.**

SECTION 12. IC 5-2-12-8.5, AS AMENDED BY P.L.238-2001,

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SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8.5. (a) To verify a ~~sex and violent~~ an offender's current ~~home or overnight~~ residence, the ~~local law enforcement agency~~ **sheriff** shall do the following:

(1) Mail each ~~sex and violent~~ offender a ~~verification registration~~ form ~~prescribed or approved by the Indiana criminal justice institute~~ to the ~~sex and violent~~ offender's listed address at least one (1) time per year, beginning seven (7) days after the ~~local law enforcement authority~~ **sheriff** receives a notice under section 14 of this chapter or the date the ~~sex and violent~~ offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) **placed in a community corrections program;**
- (D) placed on parole; or
- ~~(D)~~ (E) placed on probation;

whichever occurs first.

(2) Mail a ~~verification registration~~ form ~~prescribed or approved by the Indiana criminal justice institute~~ to each ~~sex and violent~~ offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the ~~local law enforcement authority~~ **sheriff** receives a notice under section 14 of this chapter or the date the ~~sex and violent~~ offender is:

- (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
- (B) placed in a community transition program;
- (C) **placed in a community corrections program;**
- (D) placed on parole; or
- ~~(D)~~ (E) placed on probation;

whichever occurs first.

(b) If a ~~sex and violent~~ an offender fails to return a signed ~~verification registration~~ form either by mail or in person, the ~~local law enforcement authority~~ **sheriff** shall immediately notify the institute **and the prosecuting attorney.**

SECTION 13. IC 5-2-12-8.6, AS AMENDED BY P.L.238-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8.6. (a) ~~A sex and violent~~ An offender who is required to register under this chapter may not petition for a change of

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name under IC 34-28-2.

(b) If a ~~sex and violent~~ **an** offender who is required to register under this chapter changes the ~~sex and violent~~ offender's name due to marriage, the ~~sex and violent~~ offender must notify the ~~criminal justice institute county sheriff by completing a registration form~~ not more than thirty (30) days after the name change.

SECTION 14. IC 5-2-12-9, AS AMENDED BY P.L.238-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. ~~A sex and violent~~ **An** offender who knowingly or intentionally fails to register under this chapter commits a Class D felony. However, the offense is a Class C felony if the ~~sex and violent~~ offender has a prior unrelated offense under this section."

Page 3, delete lines 19 through 42.

Page 4, delete lines 1 through 3.

Page 4, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 15. IC 5-2-12-13, AS AMENDED BY P.L.238-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) Except as provided in subsections (b) and (c), ~~a sex and violent~~ **an** offender's duty to register expires ten (10) years after the date the ~~sex and violent~~ offender:

(1) ~~becomes twenty-one (21) years of age; if the sex and violent offender was required to register under this chapter for a delinquent act;~~

(2) ~~(1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;~~

(3) ~~(2) is placed in a community transition program;~~

(4) ~~(3) is placed in a community corrections program;~~

(5) ~~(4) is placed on parole; or~~

(6) ~~(5) is placed on probation;~~

whichever occurs last.

(b) ~~A sex and violent~~ **An** offender who is found to be a sexually violent predator by a court under IC 35-38-1-7.5(b) is required to register for an indefinite period unless a court, assisted by a board of experts, finds that the ~~sex and violent~~ offender is no longer a sexually violent predator under IC 35-38-1-7.5(c).

(c) ~~A sex and violent~~ **An** offender who is convicted of at least one (1) sex and violent offense that the ~~sex and violent~~ offender committed:

(1) when the person was at least eighteen (18) years of age; and

(2) against a victim who was less than twelve (12) years of age at the time of the crime;



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is required to register for life.

(d) ~~A sex and violent An~~ offender who is convicted of at least one

(1) sex and violent offense

~~(1) that was committed when the person was at least eighteen (18) years of age;~~

~~(2) that was committed against a victim who was less than eighteen (18) years of age at the time of the crime;~~

~~(3) in which the sex and violent offender:~~

~~(A) (1) proximately caused serious bodily injury or death to the victim;~~

~~(B) (2) used force or the threat of force against the victim or a member of the victim's family; or~~

~~(C) (3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;~~

is required to register for life.

(e) ~~A sex and violent An~~ offender who is convicted of at least two

(2) unrelated sex and violent offenses ~~that were committed:~~

~~(1) when the person was at least eighteen (18) years of age; and~~

~~(2) against victims who were less than eighteen (18) years of age at the time of the crime;~~

is required to register for life.

SECTION 16. IC 5-2-12-14, AS ADDED BY P.L.238-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of a ~~sex and violent an~~ offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that a ~~sex and violent an~~ offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing ~~the appropriate local law enforcement authority having jurisdiction in the area~~ sheriff of the county where the ~~sex and violent~~ offender is required to register in Indiana of:

(1) the ~~sex and violent~~ offender's name, date of relocation, and new address; and

(2) the sex and violent offense or delinquent act committed by the ~~sex and violent~~ offender."



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Page 5, line 16, strike "a sex and violent" and insert "**an**".

Page 5, line 17, strike "local law" and insert "**sheriff**".

Page 5, line 18, strike "enforcement authority".

Page 5, between lines 34 and 35, begin a new paragraph and insert:  
 "SECTION 18. IC 31-37-19-5, AS AMENDED BY P.L.238-2001,  
 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2002]: Sec. 5. (a) This section applies if a child is a delinquent  
 child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6  
 of this chapter, enter at least one (1) of the following dispositional  
 decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile  
 court shall after a determination under IC 5-2-12-4 require a child who  
 is adjudicated a delinquent child for an act that would be an offense  
 described in IC 5-2-12-4 if committed by an adult to register with a  
~~local law enforcement authority~~ **the sheriff** under IC 5-2-12.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric,  
 a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the  
 court for a specified period of time.

(4) Order the child to pay restitution if the victim provides  
 reasonable evidence of the victim's loss, which the child may  
 challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27  
 of this chapter.

(6) Order the child to attend an alcohol and drug services program  
 established under IC 12-23-14.

(7) Order the child to perform community restitution or service  
 for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this  
 chapter.

SECTION 19. IC 35-38-1-7.5, AS AMENDED BY P.L.238-2001,  
 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2002]: Sec. 7.5. (a) As used in this section, "sexually violent  
 predator" has the meaning set forth in IC 5-2-12-4.5.

(b) This section applies whenever a court sentences a person for a

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sex offense listed in IC 5-2-12-4(a)(1) through IC 5-2-12-4(a)(10) for which the person is required to register with ~~a local law enforcement agency~~ **the sheriff** under IC 5-2-12-5.

(c) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator. Before making a determination under this section, the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders.

(d) If the court finds that a person is a sexually violent predator:

- (1) the person is required to register with ~~a local law enforcement agency~~ **the sheriff** as provided in IC 5-2-12-13(b); and
- (2) the court shall send notice of its finding under this subsection to the criminal justice institute.

(e) A person who is found by a court to be a sexually violent predator under subsection (c) may petition the court to consider whether the person is no longer a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after the sentencing court makes its finding under subsection (c). A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is no longer a sexually violent predator, the court shall send notice to the Indiana criminal justice institute that the person is no longer considered a sexually violent predator.

SECTION 20. IC 35-38-2-2.2, AS AMENDED BY P.L.238-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.2. As a condition of probation for ~~a sex and violent~~ **an** offender (as defined in IC 5-2-12-4), the court shall:

- (1) require the offender to register with ~~a local law enforcement authority~~ **the sheriff** under IC 5-2-12-5; and
- (2) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the offender obtains written approval from the court.

If the court allows the ~~sex and violent~~ offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

SECTION 21. IC 35-38-2-2.4, AS AMENDED BY P.L.238-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.4. As a condition of probation, the court may require ~~a sex and violent~~ **an** offender (as defined in IC 5-2-12-4) to:

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(1) participate in a treatment program for sex offenders approved by the court; and

(2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:

(A) receives the court's approval; or

(B) successfully completes the treatment program referred to in subdivision (1)."

Page 6, line 7, delete "Class A or Class B".

Page 7, after line 9, begin a new paragraph and insert:

"SECTION 22. IC 35-43-1-2, AS AMENDED BY P.L.100-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) A person who:

(1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or

(2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

(i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);

(ii) the property damaged was a moving motor vehicle;

(iii) **the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) and the person is not a sex offender or was not required to register as a sex offender;**

(iv) the property damaged was a car or equipment of a railroad company being operated on a railroad right-of-way; or

~~(iv)~~ (v) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

(i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);

(ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(iii) the damage is to a public record;

(iv) **the property damaged or defaced was a copy of the**

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**sex and violent offender directory (IC 5-2-6-3) and the person is a sex offender or was required to register as a sex offender;**

(v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility; or  
~~(v)~~ (vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5).

(b) A person who recklessly, knowingly, or intentionally damages:

- (1) a structure used for religious worship;
- (2) a school or community center;
- (3) the grounds:

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivision (1) or (2); or

- (4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

- (1) the person has removed or painted over the graffiti or has made other suitable restitution; and
- (2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 23. IC 35-50-2-2, AS AMENDED BY P.L.238-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section

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2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence:

- (1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.
- (2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.
- (3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.
- (4) The felony committed was:
  - (A) murder (IC 35-42-1-1);
  - (B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;
  - (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
  - (D) kidnapping (IC 35-42-3-2);
  - (E) confinement (IC 35-42-3-3) with a deadly weapon;
  - (F) rape (IC 35-42-4-1) as a Class A felony;
  - (G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
  - (H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;
  - (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
  - (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
  - (K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
  - (L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;



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(M) escape (IC 35-44-3-5) with a deadly weapon;  
 (N) rioting (IC 35-45-1-2) with a deadly weapon;  
 (O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; or

(R) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of a ~~sex and violent~~ offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.



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(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 24. IC 35-50-6-1, AS AMENDED BY P.L.238-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) Except as provided in subsection (d), when a person imprisoned for a felony completes his fixed term of imprisonment, less the credit time he has earned with respect to that term, he shall be:

- (1) released on parole for not more than twenty-four (24) months, as determined by the parole board;
- (2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
- (3) released to the committing court if his sentence included a period of probation.

(b) Except as provided in subsection (d), a person released on parole remains on parole from the date of his release until his fixed term expires, unless his parole is revoked or he is discharged from that term by the parole board. In any event, if his parole is not revoked, the parole board shall discharge him after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for the remainder of his fixed term. However, he shall again be released on parole when he completes that remainder, less the credit time he has earned since the revocation. The parole board may reinstate him on parole at any time after the revocation.

(d) When a ~~sex and violent~~ **an** offender (as defined in IC 5-2-12-4) completes the offender's fixed term of imprisonment, less credit time earned with respect to that term, the offender shall be placed on parole for not more than ten (10) years.

SECTION 25. IC 36-2-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) The sheriff shall:

- (1) arrest without process persons who commit an offense within his view, take them before a court of the county having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;



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- (2) suppress breaches of the peace, calling the power of the county to his aid if necessary;
- (3) pursue and jail felons;
- (4) execute all process directed to him by legal authority;
- (5) serve all process directed to him from a court or the county executive;
- (6) attend and preserve order in all courts of the county;
- (7) take care of the county jail and the prisoners there; ~~and~~
- (8) take photographs, fingerprints, and other identification data as he shall prescribe of persons taken into custody for felonies or misdemeanors; **and**
- (9) establish and maintain a sex offender website in accordance with section 5.5 of this chapter.**

(b) A person who:

- (1) refuses to be photographed;
- (2) refuses to be fingerprinted;
- (3) withholds information; or
- (4) gives false information;

as prescribed in subsection (a)(8), commits a Class C misdemeanor.

SECTION 26. IC 36-2-13-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5.5. (a) Every sheriff shall establish and maintain a sex offender website to inform the general public about the identity, location, and appearance of every sex offender residing in the sheriff's county.**

**(b) The sex offender website must include the following information:**

- (1) A recent photograph of every sex offender who has registered with the sheriff after the effective date of this chapter.**
- (2) The home address of every sex offender who resides in the sheriff's county.**
- (3) The information required to be included in the sex offender directory (IC 5-2-12-6).**

**(c) Every time a sex offender submits a new registration form to the sheriff, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the sex offender website.**

**(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:**

- (1) The photograph must be full face, front view, with a plain**



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white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing these items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the sex offender website.

(e) The sex offender website may be funded from:

- (1) the jail commissary fund (IC 36-8-10-21);
- (2) money appropriated from the emergency telephone fee fund (IC 36-8-16-14);
- (3) a grant from the criminal justice institute; and
- (4) any other source, subject to the approval of the county fiscal body.

SECTION 27. IC 36-8-10-21, AS AMENDED BY P.L.80-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 21. (a) This section applies to any county that has a jail commissary that sells merchandise to inmates.

(b) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money in the fund does not revert to the general fund.

(c) The sheriff, or his designee, shall deposit all money from commissary sales into the fund, which he shall keep in a depository designated under IC 5-13-8.

(d) The sheriff, or his designee, at his discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

- (1) merchandise for resale to inmates through the commissary;
- (2) expenses of operating the commissary, including, but not limited to, facilities and personnel;



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- (3) special training in law enforcement for employees of the sheriff's department;
- (4) equipment installed in the county jail;
- (5) equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of the employee's official duties;
- (6) an activity provided to maintain order and discipline among the inmates of the county jail;
- (7) an activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the following:
  - (A) Substance abuse.
  - (B) Child abuse.
  - (C) Domestic violence.
  - (D) Drinking and driving.
  - (E) Juvenile delinquency; ~~or~~
- (8) expenses related to the establishment, operation, or maintenance of a sex offender website (IC 36-2-13-5.5); or**
- (9) any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff.**

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).

(e) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall semiannually provide a copy of this record of receipts and disbursements to the county fiscal body. The semiannual reports are due on July 1 and December 31 of each year.

SECTION 28. IC 36-8-16-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. The emergency telephone system fees shall be used only to pay for:

- (1) the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;
- (2) the rates associated with the service suppliers' enhanced emergency telephone system network services; ~~and~~
- (3) the sex offender website (IC 36-2-13-5.5) maintained by a**



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**county sheriff; and**

**(4)** the personnel expenses of the emergency telephone system. The legislative body of the unit may appropriate money in the fund only for such an expenditure."

SECTION 29. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2002]: IC 5-2-12-10; IC 5-2-12-11; IC 5-2-12-12.

SECTION 30. [EFFECTIVE JULY 1, 2002] **IC 35-43-1-2, as amended by this act, applies only to acts committed after June 30, 2002."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 367 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

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